

TOWNSHIP OF MIDDLETOWN

Planning Board
1 Kings Highway
Middletown, NJ 07748-2504

JOHN DEUS
Chairman



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Director of Planning

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TECHNICAL MEMORANDUM

DATE: December 31, 2020
BOARD: Planning Board
APPLICATION: NRZ Realty (#2020-401)
Block 828, Lot 9.02
4 Mary Ellen Way, R-45 Zone
Preliminary and Final Major Subdivision

PROJECT DESCRIPTION

This application is for preliminary and final major subdivision approval with the following variances: lot frontage (all three lots), and lot coverage (two lots). The property is approximately 5.61 acres and is currently developed with an existing dwelling and asphalt driveway. The applicant is proposing to subdivide the property into three (3) residential lots while maintaining the existing dwelling on one of the lots. The remaining two lots will be developed with single family dwellings. The lots will have access to Mary Ellen Way via a private paved access drive. The applicant is proposing a bio-retention swale along the access drive and a detention basin.

PROPERTY DESCRIPTION, ZONING AND SURROUNDING LAND USE

The site consists of approximately 5.61 acres with frontage along Mary Ellen Way. The majority of the lot is partially wooded. There are wetlands along the westerly property line. The southerly portion of the site is cleared and contains an existing dwelling. The existing home has an asphalt driveway.

The surrounding properties are located in the R-45 zone; the properties to the south and southeast are single family homes, the properties to the north and northeast are owned by the Board of Education, and the property to the west is owned by a material supply company.

Please refer to the maps at the end of this report.

Many Neighborhoods. One Middletown!

Belford ◦ Chapel Hill ◦ Fairview ◦ Harmony ◦ Leonardo ◦ Lincroft ◦ Locust ◦ Middletown Village
Monmouth Hills ◦ Navesink ◦ New Monmouth ◦ North Middletown ◦ Nut Swamp ◦ Oak Hill ◦ Port Monmouth ◦ River Plaza

PLANNING COMMENTS

A. Variances and Existing Non-Conformities

1. “Planning” Variance

(A) “Planning Variance” – The applicant is seeking variance relief from Section 540-504, what is commonly referred to as a “Planning Variance.” The Planning Board may grant a variance under the provisions of N.J.S.A 40:55D-36, to permit the construction of a building that fronts upon a street that has not been improved to Township standards - as long as the following conditions are satisfied:

- Adequate access for firefighting equipment, ambulances and other emergency vehicles is provided to ensure the protection of health and safety. We defer to the Fire Advisory Board review; and
- The future street layout shown on the official Township map is preserved.

Additionally, the applicant must demonstrate to the Board that the circumstances of the case do not require the residence to be related to a street, or that disallowing the construction of a residence on the subject lot will entail practical difficulty or unnecessary hardship.

(B) Roadway Maintenance – Approval shall be contingent upon the applicant accepting full responsibility to maintain the access road.

2. Lot Frontage- Section 540-908A(3) of the ordinance requires a minimum lot frontage of 200 feet along street frontages. Proposed Lots B and C will have zero (0’) feet of frontage along Mary Ellen Way, essentially both the parcels will be landlocked. Variance relief pursuant to N.J.S.A. 40:55D-70(c) is required from the lot frontage requirement.
3. Lot coverage- Section 540-908.B(2)(b) of the ordinance permits a maximum lot coverage of 15%. The applicant is proposing a lot coverage of 21.5% on Lot A and 19.8% on Lot C. This coverage is due to the private access drive and turn around. Variance relief pursuant to N.J.S.A. 40:55D-70(c) is required from the lot coverage requirement.
4. Existing Non-Conformance- Section 540-908A(3) of the ordinance requires, a minimum lot frontage of 200 feet. The existing lot has a frontage of fifty (50’) on Mary Ellen Way. Proposed Lot A will maintain this frontage. This is an existing non-conforming condition.

B. Site Design and Layout

1. Architectural and Building Design- The applicant shall provide architectural plans of the single family dwellings to assure compliance with Section 540-604. Testimony should be provided that the proposed dwelling units shall comply with Section 540-630 and Section 540-624.F of the ordinance.
2. Side-entry garages- As per Section 540-619.B.4 of the ordinance, attached garages shall be arranged to open to the side or rear of the lot. The plans appear to be compliant with this requirement. This shall be a condition of approval.

3. Stormwater Basin- The proposed stormwater detention basin is proposed on Lots B and C, which crosses the private lots. The applicant shall clarify the following:
 - a) Page 4 of the Stormwater Maintenance Manual notes “its successors and/or assigns...” Who will be responsible for maintaining the Stormwater basin? Is the applicant proposing a homeowner association?
 - b) The applicant shall provide testimony on the proposed operations and maintenance plan for the stormwater management infrastructure.
 - c) The current and future homeowners shall be apprised of the detention basin, bioretention swale and drywell obligations. Clear language delineating how the obligations attach to the property titles must be provided.
 - d) Consideration should be given to adding a penalty clause to the Stormwater Maintenance Manual in the event there is no adherence to the specified maintenance schedule.
 - e) Has the applicant considered the Stormwater Basin on a separate lot?

We defer to the Board Engineer for additional comments.

C. Environmental and Easements

1. The applicant must place all of the proposed preservation areas, including the wetland areas, buffers and tree save areas within a conservation easement. The easement documents must be submitted for review and approval by the Township professionals. The easements must be shown on the final plat before filing.
2. NJDEP Wetlands and Wetlands Disturbance:
 - a) The applicant is proposing an access drive, detention basin and bioretention swales, portions of which will be within the wetlands transition buffer area. Additionally, portion of the bioretention swale will be in the wetlands area. These require the necessary permits from the NJDEP. Testimony should be provided regarding the status of the permits.
 - b) The subdivision plans do not show a buffer averaging plan showing the appropriate upland areas being preserved. A buffer averaging plan showing the areas to be preserved shall be submitted. This shall be a condition of approval.
3. Drainage and Access Road Easement:
 - a) The plans depict an access and utility easement to include the access road, bioretention swale and detention basin. Metes and bounds description and easement documents shall be provided for the Board Attorney and Engineer’s review.

We defer to the Planning Board Engineer for additional environmental comments.

D. Landscaping & Street Trees

1. Section 540-645.C requires that street trees be planted 30 feet on center along all street frontages. The applicant shall provide one (1) additional street trees along Mary Ellen Way (on Lot A). The applicant is proposing 18 trees along the east side of private access drive while there are none proposed along the west side of the access drive proximate to the bioretention swale and portion of the cul-de-sac bulb. The applicant shall provide the additional trees or seek a waiver.

2. Pursuant to Section 540-622.B.6 of the ordinance, ten (10) additional trees per acre of the tract, besides screening and street trees, shall be provided. These trees shall be calculated on the basis of the "entire subdivision tract." Therefore, a total of approximately 56 (56.1) trees are required for the entire tract of 5.61 acres of the tract. From the plan schedule provided on Page 7, it appears that the applicant is providing a total of 34 trees. Excluding the 18 trees along the private access drive, it appears that 16 new trees are being proposed, which does not comply with the ordinance requirement. Therefore, an additional 40 trees are required. The applicant shall provide testimony as to their inability to provide additional trees.
3. The applicant shall clarify the number of trees that shall be removed within the area of disturbance. It appears that the applicant is proposing to clear about 254 trees. Testimony should be provided regarding the extent of clearing, and replacing trees across the entire tract. This is especially significant as Section 540-651.C of the ordinance requires "individual healthy specimen and mature shade trees of twelve-inch caliper or healthy specimen trees of eight-inch caliper or greater or individual healthy ornamental trees of four-inch caliper or greater, shall be preserved wherever possible."
4. Section 540-651.A requires that in all districts in the Township where the maximum percent of lot coverage is 15% or less, no more than 20% of such wooded areas within the net tract area may be cleared or developed. The remaining 80% shall be maintained as permanent open space or preserved within the lot. Testimony should be provided regarding compliance with this ordinance requirement or in the alternative a design waiver is required.
5. No lighting has been submitted, the applicant shall provide testimony as to how the private drive will be lit. If the applicant is proposing lighting, details of the proposed light fixture must be provided.
6. The applicant shall revise the Landscape Plan to show the existing trees that will be retained.

We defer to the Planning Board Engineer for additional landscaping comments.

E. Sidewalks

1. Section 540-634.A of the ordinance requires sidewalk construction along the entirety of the lot frontages. No sidewalk is proposed along the access drive and a waiver would be required. In the event the Board chooses to waive sidewalk, then a contribution in lieu to the Township Sidewalk Trust Fund would be required.

F. Access Road

1. The applicant shall discuss the nature of the proposed private access road and how the responsibility of maintenance, upkeep and services will be divided between the proposed properties?
2. The applicant has provided an email from the Fire Advisory Board approving a minimum 18-foot road width. Signage prohibiting parking shall be provided on both sides of the access road.

3. A road opening permit is required from the Township of Middletown's Department of Public Works.

G. Miscellaneous

1. It is recommended that the applicant form a homeowner's association to operate and maintain the access road, basin, etc. HOA documents must be submitted to the Township professionals for review.
2. Testimony should be provided regarding solid waste removal for the proposed dwelling units.
3. Affordable Housing Trust Fund – A contribution will be required to the Township Affordable Housing Trust Fund at time of issuance of certificates of occupancy, pursuant to Section 540-531.C.19.c.1.
4. Street Addresses – The applicant will be required to provide a street address plan for approval by the Zoning Officer.
5. Lot Numbering – New lot numbering shall be subject to review and approval by the Tax Assessor.
6. Environmental Disturbance Fund – A contribution to the Township's Environmental Disturbance Fund will be required prior to issuance of any construction permit.
7. Appurtenances such as condenser units and other equipment shall be fully screened from view. If proposed, these locations shall be indicated on the site plan.
8. Section 540-649A requires that all utilities shall be underground. The applicant shall provide a note on the plans indicating that all utilities will be installed underground, and shall provide pavement repair details for any necessary excavation in the access road at a future date.

H. Approving Agencies

Final approval or letter of no jurisdiction should be obtained from the following agencies and any other agencies having jurisdiction.

- NJDEP
- Freehold Soil Conservation District
- TOMSA
- Middletown Township Fire Advisory Board
- New Jersey American Water
- New Jersey Natural Gas
- Comcast Cable
- JCP&L
- Verizon

DOCUMENTS REVIEWED

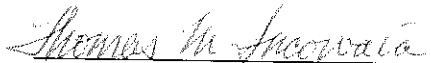
- Major Subdivision plans prepared by Brent N. Papi Jr., P.E. dated December 20, 2019 consisting of thirteen (13) sheets;
- Major Subdivision Plan for Nathan Zalta with attached Certificate of Title prepared by Otto Craig Rossmeyer dated December 20, 2019 consisting of one (1) sheet;
- Boundary and Topography Survey for Nathan Zalta prepared by Otto Craig Rossmeyer dated January 4, 2019 and revised through September 27, 2019;
- Stormwater Management Report for 4 Mary Ellen Way prepared by Brent N. Papi, P.E. dated January 10, 2020;
- Report of Subsurface Investigation from Moin Khan, P.E., of M.Z. Engineering Associates, P.C. dated September 19, 2019;
- Freshwater Wetlands Letter of Interpretation from the State of New Jersey Department of Environmental Protection dated June 21, 2019;
- Notice of Preliminary and Final Approval for 4 Mary Ellen Way Sewer Main Extension from the Township of Middletown Sewerage Authority dated December 12, 2019;
- Letter from John D. Van Dorpe, P.E, Township of Middletown Sewerage Authority, dated November 13, 2019;
- Email Correspondence from John Drucker, April 4, 2019;
- Water Availability Letter from Michelle Heller Operations Specialist for New Jersey American Water dated November 25, 2019

We reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

Report Prepared by:



Sanyogita S. Chavan, PP, AICP
Director of Planning



Thomas M. Incorvaia
Assistant Planner

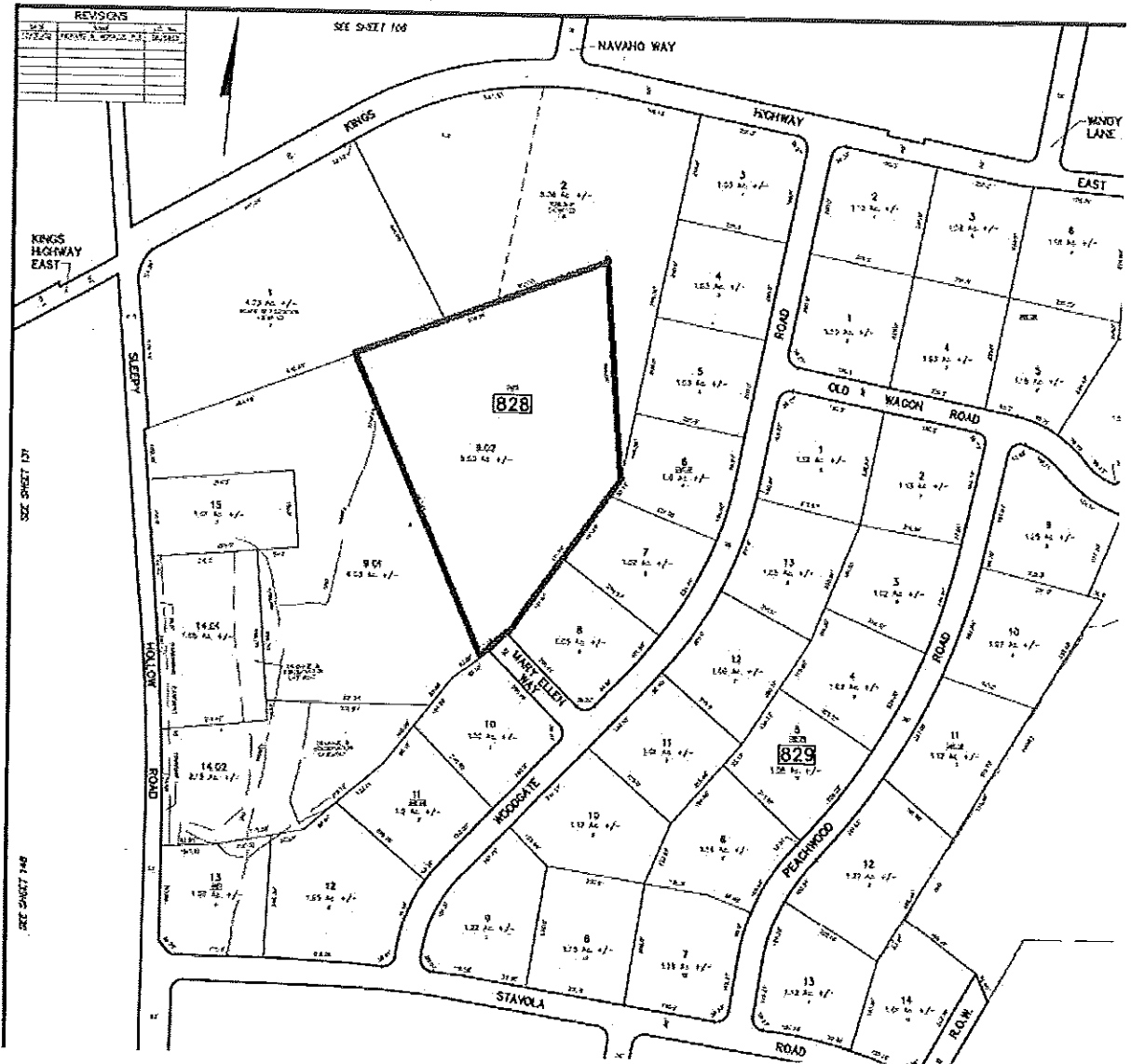




Table A

Variance	Description	Approved(?)
Planning Variance	0 feet proposed on Lot B; where 200 feet is required.	
Planning Variance	0 feet proposed on Lot C; where 200 feet is required.	
Lot Frontage	0 feet proposed on Lot B; where 200 feet is required.	
Lot Frontage	0 feet proposed on Lot C; where 200 feet is required	
Lot Coverage	21.5% is proposed on Lot A; where 15% is permitted.	
Lot Coverage	19.8% is proposed on Lot C; where 15% is permitted.	
Waiver		
Required Plantings	16 new trees proposed, 56 required.	
Street Trees	Street trees shall be provided every thirty (30') feet	
Sidewalks	The applicant shall install sidewalks or pay the required contribution.	
Wooded areas	No more than 20% of such wooded areas within the net tract area may be cleared or developed	